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The Judge and the Archives

WHEN THE BUSH administration left office, the White House staff was under court order to turn over all White House computer records, or backup computer tapes preserving them in "identical form," to the office of U.S. Archivist Donald Wilson. But the archivist has since left that post to become executive director of the George Bush Presidential Studies Center at Texas A&M University—a position he was in negotiation for with his potential employers when he signed a much-criticized agreement giving Bush "exclusive legal control" over those very records—and last week the judge, Charles Richey of U.S. District Court, ruled that there is evidence that his preservation order "may not have been complied with." Judge Richey's ruling gives Mr. Wilson and several other officials until April 19 to submit information on why they should not be held in civil contempt of court. The way things are shaping up, this is going to have to be one heck of an interesting explanation.

The behavior of the archivist and of the Bush White House officials in the case thus far has not exactly been of the kind to dispel suspicion. The "identical form" part of the court order was a response to a last-minute appeal in which the White House had pleaded that preserving all the computer records—including what investigators think may be crucial information about Iran-contra and the Clinton passport files search—would be impractical and would lead to "overload and shutdown" of the White House machines. This show of heartfelt consideration for successors was somewhat undercut by the subsequent discovery by those successors that many White House machines were unusable because the memory programming had been wholly purged or the machines' hard drives physically removed. In earlier court pleadings that Judge Richey rejected, the Bush staff had asked to be allowed to purge all the computer traffic because it didn't constitute records at all but only "interoffice communication"—E-mail messages and the like—and that staffers had printed out all the important information on paper anyway.

But as the judge pointed out, much more information is available via computer tapes as to who sent what messages, when, and who read or altered them. That's just the kind of information that may be at issue in a lawsuit being pressed by several private groups to obtain access to some Iran-contra records. That access hasn't been ruled on yet, which makes it even more important that the information be retained. Lawyers for the private National Security Archive have charged that at least six computer backup tapes may have been erased and that the archivist failed in his duty to prevent that from happening. These are serious charges. That the Bush administration is over and Mr. Wilson gone is no reason they should not be held accountable if these charges prove true.